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C O N F I D E N T I A L SECTION 01 OF 02 HONG KONG 003750

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DEPT FOR EAP AND EAP/CM
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E.O. 12958: DECL: 09/19/2031
TAGS: PGOV PHUM PINR PREL HK CH

SUBJECT: HONG KONG GOVERNMENT AND MEDIA FRENZY OVER COVERT PHOTOS

REF: HONG KONG 03109

Classified By: A/DPO LAURENT CHARBONNET. REASONS: 1.4(B, D)

¶1. (C) Summary and Comment: The late-August publication of sneak paparazzi-style photos of partially clad "canto-pop" singer Gillian Chung has sparked a public debate in Hong Kong over the proper balance between right to privacy and freedom of the press. Women's rights activists and some politicians are vociferously calling for the government to restrict media "at odds with the public interest," while the media are concerned that the incident might provoke an over-reaction by media regulators and the legislature. Government officials, including the Chief Executive and the Legislative Council (Legco), have called for fresh discussions on the controversial legal nexus between privacy, press freedom and covert surveillance. Comment: Following intense criticism of its handling of the covert surveillance legislation passed by Legco in early August, the Government now faces another dilemma: endure renewed public scrutiny on the details of the government's position, or be criticized for backing away from public interest over the privacy debate. End summary and comment.

Chung Photos Take Center Stage

¶2. (SBU) Peephole-style photos of popular Hong Kong singer Gillian Chung, taken backstage at a concert in Malaysia and published August 23 in the Hong Kong weekly "Easy Finder," have sparked debate among local media and women's rights activists, whose calls for government action are gaining traction. The photos of Chung adjusting her bra and naked from the shoulders up were apparently taken through a peephole and published on the cover of "Easy Finder," a publication of Next Group which is known for its aggressive and sometimes salacious journalism. Statements by Jimmy Lai, owner of Next Group as well as the independent "Apple Daily," Hong Kong's most popular Chinese-language newspaper, could be pivotal in public debate. Serenade Woo Lai-Wan, the chairperson of the Hong Kong Journalists Association, told us that Lai "could affect the whole media by pushing the government to act." According to press reports on August 30, Woo also cautioned that rushing into the debate would be counterproductive, especially in the midst of the lingering "intense controversy." Jimmy Lai has not yet commented on publication of the photos; however, on August 29, "Apple Daily" published criticism of "Easy Finder" only to later publish three opinion articles that defend "Easy Finder's" refusal to apologize.

¶3. (SBU) The two points of contention are, first, that the risque photographs were taken without Chung's knowledge or

consent, and second, that they were then published. Since the photographs were taken in Malaysia, the first issue is beyond the jurisdiction of Hong Kong authorities or courts. On the second point, however, Chung filed a writ with Hong Kong's High Court (Obscene Articles Tribunal) on August 28, seeking an injunction against further publication and an order for "Easy Finder" to surrender all existing copies of the photos. Although most journalists roundly blasted "Easy Finder,"'s" unethical conduct, some have started to back away from calls for government intervention. On August 31, a "South China Morning Post" editorial cautioned that "legislating would involve striking a balance between two fundamental rights) privacy and press freedom...which poses bigger problems than the recent passing of covert surveillance laws."

The Government Drawn to React

¶4. (C) In the days since the flap, government officials, including the Chief Executive and legislators, have called for fresh discussions on the legal nexus between privacy, press freedom and covert surveillance, whether official or commercial. Chief Executive Donald Tsang, after initially distancing himself from the issue, told reporters that "I agree with the criticism of the photo...there is a need to strike a balance between press freedom and privacy," but the CE has not yet voiced a firm commitment to propose legislation. Recent passage of the Interception of Communications and Surveillance Ordinance (see ref) and public criticism of the government,s management of Radio Television Hong Kong underscore the government,s ongoing involvement in press freedom, privacy, and related issues. Andy Ho, the Information Coordinator for the Chief Executive,

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in concert with Sai Leung Lau, a member of the Central Policy Unit, told us recently that the CE's office is more interested in getting concrete proposals for laws addressing the issue than in fostering political grandstanding by anyone using privacy or press freedom as rallying cries. Both Ho and Lau also emphasized the Law Reform Commission's mandate to hammer out the details on this issue.

¶5. (SBU) Joseph Wong, Secretary for Commerce, Industry, and Technology, told representatives of the Hong Kong Performing Artistes Guild on September 1 that a review of penalties under the Control of Indecent and Obscene Articles Ordinance was underway, and that new proposals would be submitted to the Legislative Council within a few months. Legislators on the Panel for Information Technology and Broadcasting, reacting to calls from the HK Performing Artistes Guild, the Women,s Rights Association and the Society for Truth and Light, raised the matter in a special meeting on September 11, following the Legco summer recess, to consider imposition of penalties on "Easy Finder." Local media quickly cited the "unusual lines" that divided legislators on the complex issue of press freedom and privacy. On September 6 several Democratic Party legislators called on the government to plug "loopholes" in current laws and to impose fines and penalties more commensurate with the profits earned by publishers of "indecent" material. Finally, on September 11, the Permanent Secretary for Home Affairs, Carrie Lam Cheng Yuet-ngor,

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resisted rush calls for legislation amid the controversy.
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